

1 JOSEPH P. RUSSONIELLO (CABN 44332)
United States Attorney

2 BRIAN J. STRETCH (CABN 163973)
3 Chief, Criminal Division

4 DEREK R. OWENS (CABN 230237)
5 Assistant United States Attorney

6 450 Golden Gate Avenue, 11th Floor
7 San Francisco, California 94102
Telephone: (415) 436-6488
Fax: (415) 436-7234
Email: Derek.Owens@usdoj.gov

8 Attorneys for Plaintiff

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13
14 UNITED STATES OF AMERICA,) No. CR 3-08-70172 JCS
15 Plaintiff,)
16 v.)
17 FRANCISCO ROMERO VIAN,)
18 Defendant.)
19
20

)
STIPULATION AND [PROPOSED]
ORDER CONTINUING HEARING TO
MAY 21, 2008 AT 9:30 A.M. AND
EXCLUDING TIME FROM APRIL 24,
2008 THROUGH MAY 21, 2008

21 On March 28, 2008, the parties in this case appeared before Magistrate Judge Joseph C.
22 Spero for an initial appearance on a criminal complaint charging passport fraud. The defendant
23 was released on a \$50,000, unsecured personal recognizance bond. At that time, the parties
24 requested and the Court agreed to set the preliminary hearing for April 24, 2008. Since that
25 March 28 appearance, the parties have been in discussions and appear to be close to a resolution.
26 Although the parties are close to resolving the matter, it is clear that counsel for defendant will
27 need a short amount of additional time to conclude consultations with immigration counsel
28 regarding the case. These consultations are required for the effective preparation of defense

STIP. AND ORDER
CR 3-08-70172 JCS

1 counsel in his representation of defendant.

2 The parties hereby jointly and respectfully request that the Court continue this matter to
 3 Wednesday, May 21, 2008 at 9:30 a.m., before the duty Magistrate Judge Edward M. Chen for a
 4 preliminary hearing.

5 The parties further stipulated that pursuant to Federal Rule of Criminal Procedure
 6 (FRCP) 5.1(d), the time limits set forth in FRCP 5.1(c) be excluded from April 24, 2008 through
 7 May 21, 2008. The parties agree that – taking into account the public interest in prompt
 8 disposition of criminal cases – good cause exists for this extension. Defendant also agrees to
 9 exclude for this period of time any time limits applicable under Title 18, United States Code,
 10 Section 3161. The parties represented that granting the continuance is the reasonable time
 11 necessary for continuity of defense counsel and effective preparation of defense counsel, taking
 12 into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv). The parties also
 13 agreed that the ends of justice served by granting such a continuance outweighed the best
 14 interests of the public and the defendant in a speedy trial. See 18 U.S.C. § 3161(h)(8)(A).

15
 16 SO STIPULATED:

17 JOSEPH P. RUSSONIELLO
 18 United States Attorney

19 DATED: _____ 4/22/2008

/s/ Derek Owens

20 DEREK R. OWENS
 Assistant United States Attorney

21 DATED: _____ 4/23/2008

/s/ Steven Teich

22 STEVEN EMERY TEICH
 Attorney for Mr. Vian

23
 24 For the reasons stated above, the Court hereby vacates the April 24, 2008 hearing before
 25 Magistrate Judge James Larson and continues it to Wednesday, May 21, 2008 at 9:30 a.m.,
 26 before the duty Magistrate Judge Edward M. Chen for a preliminary hearing. The Court further
 27 finds that an exclusion of time from April 24, 2008 through May 21, 2008 is warranted and that
 28

STIP. AND ORDER
 CR 3-08-70172 JCS

1 the ends of justice served by the continuance outweigh the best interests of the public and the
2 defendant in a speedy trial. See 18 U.S.C. §3161 (h)(8)(A); FRCP 5.1(d). The failure to grant
3 the requested continuance would deny the defendant of continuity of counsel and would deny
4 defense counsel the reasonable time necessary for effective preparation, taking into account the
5 exercise of due diligence, and would result in a miscarriage of justice. See 18 U.S.C.
6 §3161(h)(8)(B)(iv).

7

8 SO ORDERED.

9

10 DATED: April 23, 2008

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28


THE HONORABLE JAMES LARSON
United States Magistrate Judge